DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS ROLLING HILLS SUBDIVISION CITY OF MACEDONIA, SUMMIT COUNTY, OHIO

THIS DECLARATION is made as of this_ by the undersigned, PFR LAND COMPANY, an Obio Corporation, hereinafter referred to as the Developer, in consideration of the mutual promises and covenants herein contained, who has agreed and does hereby agree to encumber its real estate in the Rolling Hills Subdivision as follows:

WITNESSETH:

WHEREAS, the Developer is the Owner of the real property described in Exhibit "A". altached herelo and made a part hereof, which real property is commonly known as Rolling Hills Subdivision, Macedonia, Ohio ("The Properties") and intends for The Properties to be made subject to should reaccountary the properties of and micros for the properties to be made subject this Declaration of Covenants, Conditions, Restrictions and Easements as a residential community; and

WHEREAS, Developer proposes to and does hereby establish for their own benefit and for the mutual benefit of all future Owners (hereafter defined) or Occupants of The Properties, certain conditions, restrictions, obligations, and benefits with respect to the use, occupancy, maintenance and ownership of The Properties, and certain easements, rights and encumbrances in The Properties; and

WHERFAS, Developer has deemed it desirable to create an agency to which should be delegated and assigned the powers of maintaining, administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges bereinsites created; and

WHEREAS, there has been or will be incorporated under the laws of the State of Ohio, as a nonprofil corporation, ROLLING HILLS HOMEOWNERS ASSOCIATION, INC., for the purpose of

Description Annoved By TAX LIAP DEPARTMENT NOW, THEREFORE, Developer declares that the real property described in Exhibit "A" is and scall be held, used, occupied, sold, conveyed or otherwise disposed of subject to the following covenants, restrictions, casements, obligations and benefits, each of which shall run with The Properties and inure to the benefit of every Owner thereof and be binding on all parties having any right, title or interest in The Properties and every part thereof, and their distributees, heirs, executors, administrators, beneficiaries, successors and assigns, (sometimes referred to as "Covenants and

ARTICLE I DEFINITIONS

The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

(a) "ASSOCIATION" shall mean and refer to the ROLLING HILLS HOMEOWNERS ASSOCIATION, INC., a nonprofit corporation formed pursuant to the laws of the State of Ohio, together 3 & 6 2 Market pursuant to the laws of the State of Ohio, together

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James B. McCarthy County Auditor

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- (b) "THE PROPERTIES" shall mean and refer to all of the real property described in Exhibit A known as Rolling Hills Subdivision together with all easements benefiting the real property and all appurtenances, with the exception of Sublot 1, which Sublot is specifically excluded from The Properties and is not subject to this Declaration.
- (c) "EASEMENT PROPERTIES" shall be all land within the area of the recorded plat for the Subdivision marked "Detention Area" and located on various Lote and the areas designated as a sewer easement. Further, the easement properties shall include the signage easement areas located on the entrance islands in the Rolling Hills Subdivision. Easement Properties shall not include the areas designated on the recorded plat as "Conservation Easement".
- (d) "CONSERVATION EASEMENT" shall be all land within the area of the recorded plat for the Subdivision marked "Conservation Easement" and located on various Lots.
- (e) "LOT" shall mean and refer to any numbered sublot of land shown upon the recorded subdivision maps of The Properties and intended to be devoted to single-family residential use.
- (f) "OWNER" shall mean and refer to the record owner, whether one or more persons or entities of the fee simple title to any Lot or living unit, situated upon The Properties, but notwithstanding any applicable theory of the mortgage, shall not mean or refer to the mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (g) "MEMBER" shall mean and refer to all those owners who are members of the Association as provided in Article IV hereof.
 - (h) "DEVELOPER" shall mean PFR Land Company, its successors and assigns.

ARTICLE II PROPERTY SUBJECT TO THIS DECLARATION

The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration consists of the residential sublots located in the City of Macedonia. County of Summit and State of Ohio which are more particularly described on the Exhibit A attached hereto and made a part hereof.

ARTICLE III RESTRICTIONS

Section 1. All sublots in said Rolling Hills Subdivision shall be known, described and used as residential lots with no dwelling other than a single one-family dwelling with at least two-car attached garage, and such one-family dwelling shall not contain less than:

- A. One-Story Dwelling: 2,000 square feet of living space for a one-story dwelling, exclusive of garages, basements, porthes and breezeways. One-story dwellings must have a minimum \$12 pitch roof to fit in with two-story dwellings.
- B. Two-Story Dwelling: 2,400 square feet of living space for a two-story dwelling, exclusive of garages, basements, porches and breezeways.

Any variance from the square footage requirements above shall be only with the Developer's express written consent.

Section 2. Any structure built must have the prior review and approval of said plans in writing from Developer, its successors or assigns. It is understood that Developer is primarily only after the Developer, its successors or assigns, has approved the plans in writing with regard to the elevation and size of the structure to be built.

Section 3. Developer furth a reserves for itself its successors and assigns the right to permit deviation or grant a variance from, or to change, waive or modify, subject to zoning requirements, any and all of these restrictions if in its sole judgment the development or lack of development of adjoining or adjacent property or topography of the land involved in Developer's sole judgment makes such relinquish the power berein reserved in the event it decides to do so.

Section 4. Developer reserves easements and rights of ways, within, over, under and across or otherwise shown on the Plat of the Rolling Hills Subdivision and/or parallel with and contiguous to all street lines for the installation, maintenance, repair and operation of underground gas lines if any, electric lines, telephone lines, storm and sanitary sewers, water lines and cable T.V. lines, and additionally, reserves the right to assign the use of said easement; and rights of ways, or to grant underground easements for the same to the respective utility companies to service the subdivision. For the protection of underground electric cables, wires, lines and other facilities, where applicable, the grade or contour of the easement premises within said Subdivision shall not hereafter be increased, decreased or otherwise changed or altered without the consent of the appropriate utility company. This shall constitute express notice that any change of grade or contour of the easement premises shall result in damage to said utility lines.

Section 5. The use of simulated fireplace chimney, shall not be permitted within the Rolling Hills Subdivision. All exterior portions of chimneys shall be constructed of brick or stone. Any direct vent chimney and/or furnace shall be vented to the rear of the bouse only.

Section 6. Each dwelling constructed shall be landscaped with a minimum planting per Lot, from the front property line to the rear of the house, of three trees planted with a minimum caliper of 2" (measured 24 inches above grade) and 18 shrubs. Each tree or shrub existing on the Lot when the dwelling is constructed shall offset one-for-one the required new plantings. In addition to the aforesaid, the Owner of each Lot shall be required to plant street trees per the City of Macedonia requirement. This is a minimum of two (2) trees per Lot, four (4) trees per corner Lot. Street trees must be planted each 40 feet, on the tree lawn. An Owner shall have one year from the date of first occupancy

Section 7. Upon completion of each dwelling in the Subdivision, the Owner shall place at the street, a mailbox on a 6° x 6° post with cross arms. It is recommended that each Owner use a mailbox from the Bacova Mailbox Line, similar in design to the example as shown on Exhibit B attached hereto and made a part hereof. The post office may require that mailboxes be placed on only one side of the street.

Section 8. No building shall be constructed on any Lot unless its external design and color are in harmony with the other buildings of similar use located within The Properties and as required by the City of Macedonia.

Section 9. During and after construction or installation of any improvement on a Lot, the Owner of that Lot shall cause the Lot to be kept free of unsightly accumulations of rubbish and scrap materials and shall cause all construction materials and any temporary structure to be maintained in a neat and orderly manner. All of those materials shall be removed from the Lot promptly after completion of the construction or installation.

Section 10. No mobile homes, trucks, (except one truck not over 3/4 ton) trailers, boats, or other type of recreational vehicles, non-operational or stored cars (cars without a valid current license shall be deemed to be either non-operational or stored) shall be kept on The Properties unless they are housed inside a garage or other structure attached to a house. No repairs shall be made on vehicles or equipment, except for repairs of an emergency nature, and then only with respect to cars owned by the owner of the Lot.

Section 11. The blockage of any natural drainage course or swale or changing of the grade of a Lot by Owner is expressly prohibited, and Developer and/or the Association reserve the right to enter onto the Lot to alter said changes to allow the natural free flow of the drainage at Owner's expense.

Each Lot Owner must provide for the appropriate drainage of all water from their yard (i.e. rear yard drain.)

Section 12. Any detached buildings erected or placed on a Lot shall be constructed in a manner to resemble the exterior of the dwelling on said Lot and shall be located as approved by the City of Macedonia.

Section 13. No obnoxious or offensive activities shall be carried on or maintained on any Lot nor shall anything be done thereon which may be or become a nuisance or annoyance to the occupants of other residences in The Properties.

Section 14. It is a desire of the City of Macedonia that one-half of the Lots will have residences with side loaded garages constructed thereon. The City of Macedonia, in its sole discretion, will determine which Lots will have residences with side loaded garages constructed thereon.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Members shall be all those Owners as defined in Article 1 hereof. Each member shall be entitled to one vote for each Lot in which they hold an ownership interest. When more than one person holds such interest or interests in any Lot, all such persons shall be Members and the vote for such Lot shall be exercised as they among themselves determine but in no event shall more than one vote be east with respect to any such Lot. Provided, however, votes shall be east only for such Lots for which current dues to the Association have been paid.

ARTICLE V PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Member's Easement of Enjoyment, Subject to the provisions of Section 3 of this Article V, every Member shall have a right and easement of enjoyment in and to the Easement Properties and such easement shall be appurtenant to and shall pass with the title to every Lot.

- Section 2. Title to Ensement Properties. Title to the Ensement Properties shall remain with the Owner of the Lot.
- Section 3. Limitations of Member's Fasements. The rights and easements of enjoyment created hereby shall be subject to the following:
 - (a) Member's shall not be permitted general access to the Easement Properties.
- (b) The Association through its agent(s) or employees shall have the right to enter the Easement Properties for maintenance purposes only.

ARTICLE VI MANAGEMENT, MAINTENANCE AND MAINTENANCE ASSESSMENTS

Section 1. Management. The Association shall provide the management and supervision for the operation of the Easement Properties. The Association shall maintain such policies, programs and procedures to fully implement this Declaration for the purposes intended and for the benefit of the Members and in so doing may:

(a) Adopt Rules; and

- (b) Engage employees and agents, including without limitation, attendants, social directors, attorneys, accountants and consultants, maintenance firms, contractors and a managing agent.
- Section 2. Maintenance. The Association shall maintain the garden areas around the Rolling Hills Subdivision signs, and the signs. The Association shall not be responsible to mow any grass in the Easement Properties.

In furtherance of maintaining the Detention Area (storm retention area) the Association shall regularly clean out any drainage channel to permit the free flow of water. In the event the Association fails to maintain the unobstructed water flow in the drainage way, any Owner or the City of Macedonia may cause the same to be completed at the Association's sole expense.

Section 3. Obligation of Assessments. Each Lot owner within The Properties hereby covenants, whether or not it shall be so expressed in any deed or other conveyance that the Owner shall be deemed to covenant and agree to pay to the Association: (a) annual assessments or charges; (b) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments together with such interest thereon shall be the personal obligation of the Lot owner at the time when such assessment was made and may upon the filing of an aftidavit signed by the President of The Association stating the nonpayment, become a lien on the Int.

section 4. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in The Properties and in particular for the care, maintenance and improvement of the Easement Properties, and services performed in connection therewith including, but not limited to, repair, replacement and additions thereto and for the cost of labor, equipment, materials, management and supervision thereof.

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- Section 5. Besis and Maximum of Annual Assessments. Until the year beginning January, 1999 the annual assessment shall be Twenty Dollars (\$20.00) per Lot. From and after January 1, 1999 the annual assessment shall be established in each year by vote of the Members as hereinafter provided.
- Section 6. Changes in Resis and Maximum of Annual Assessments. Subject to the limitations of Section 5 hereof and for the period therein specified, the Association may in any annual period change the maximum and basis of the assessments for any such period provided that any such changes shall have the assent of two-thirds of the votes of all Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.
- Section 7. Quorum for any Action Authorized Under Sections 5 and 6. At the meeting called for the purpose of passing assessments, the presence at the meeting of Members, or of proxies, entitled to cast 50% of all the votes of membership shall constitute a quorum.
- Section 8. Date of Commencement of Annual Assessments. Due Dates. The annual assessments provided for herein shall commence on the date (which shall be the first day of the month) fixed by the Board of Trustees of the Association to be the date of commencement.

The first annual assessments shall be made for the balance of the calendar year and shall become due and payable on the day fixed for commencement, without proration. The assessments for any year, after the first year, shall become due and payable at the time established by the Trustees.

Section 9. Duties of the Board of Trustees. The Board of Trustees of the Association shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period of at least 30 days in advance of such date or period and shall at that time prepare a roster of the properties and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Association, shall, upon demand at any time, furnish to any Owner liable for an assessment a certificate in writing signed by an officer of the Association, seiting forth whether raid assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment stated to have been paid.

Section 19. Exempt Property. The following property subject to this Leclaration shall be exempted from the assessments and charges created herein: all Lots which do not have a structure built thereon, only until such time as a residence is constructed and initially occupied thereon.

Notwithstanding any provisions herein, no portion of The Properties devoted to dwelling use shall be exempt from said assessments, or changes once there is an occupied residence thereon. Provided, however, any Lot conveyed out of Developer's name shall be subject to the assessments and charges created herein regardless of whether a structure is built thereon, two (2) years from and after the date of conveyance of the Lot to such person, firm or corporation.

Section 11. Developer Manages. Until such time as title to fifty-one percent (51%) of the Lots has been transferred out of Developers name, Developer shall maintain and manage the Easement Properties at Developers sole expense.

ARTICLE VII CONSERVATION EASEMENT

Conservation Fasement. Subject to the Provisions of this Article VII, the Conservation Easement shall remain predominantly in its present physical condition.

- (a) The Conservation Easement is private to each Lot Owner and no person has a right to use the Conservation Easement on any other Owner's Lot.
 - (b) No culverts or natural drainage ditches are to be filled or diverted.
- (c) Changes to the topography of the Conservation Easement can be made only if the changes are for the environmental preservation of the Conservation Easement.
- (d) The Conservation Easement shall be maintained at the sole cost and expense of the Owner of the Lot upon which the respective portion of the Conservation Easement is located.

The rights and easement of enjoyment created hereby shall be subject to the following:

- (1) The right of the Developer and the Lot Owner to mortgage land end/or Lots titled in their name.
- (2) The right of the Lot Owner to the full use and enjoyment of his or her Lot, subject to the restrictions herein.

Persons violating the above restrictions shall be penalized in accordance with the rules and regulations established by the Association.

ARTICLE VIII GENERAL PROVISIONS

Section 1. Notices. Any notices required to be given in writing to any person under the provisions of this Declaration shall be deemed to have been given when mailed, postpaid, to the last known address of such person provided, however, that a notice of "delinquency" of any payment due hereunder shall be made by certified or registered mail, return receipt requested or by telegram. The effective date of such notice shall be the date said notice is postmarked or the date the telegraph company received the message, as the case may be.

Section 2. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, Developer or the Owner of any part of The Properties subject to the Declaration, their respective legal representatives, heirs, successors and assigns, for a term of 10 years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of 10 years unless an instrument signed by the then Owners of two-thirds of the Lots has been recorded agreeing to change said covenants and restrictions in whole or in part, at which time said covenants and restrictions shall continue in full force and effect as amended.

Section 3. Enforcement. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any Covenant or Restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants. Failure of Developer, the Association, any Owner, or the

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City of Macedonia to enforce any of the terms of these Covenants and Restrictions shall in no event by construed, taken or held to be in any manner a waiver thereof, or acquiescence on or any consent to any further or succeeding breach or violation of the term of this Declaration, and Developer, the Association, any Owner, or the City of Macedonia shall at any and all times have the right to enforce the terms hereof and to prevent any other violations and breaches of this Declaration, however the failure, refusal, or neglect of Developer, the Association, any Owner, or the City of Macedonia to enforce the same and to prevent any violations or breaches of the terms of this Declaration shall in no manner and to no extent whatsoever make the Developer, the Association, any Owner, or the City of Macedonia liable in connection therewith.

<u>Section 4.</u> <u>Severability.</u> Invalidation of any one of these Covenants or Restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. Amendment of Certain Restrictions and Covenants Unless a greater percentage of vote is required to take a particular action hereunder (in which case such greater percentage of vote shall be required) any provision of this Declaration may be amended or repealed only by the affirmative vote of members holding not less than 60% of the voting power of the Association. The Covenants and Restrictions shall not terminate in any event, unless the Developer or The Association obtains approval from the City, and if required, establishes an agreement with the City of Macedonia for maintenance of the duties hereunder and for the enforcement of standards referred to in this document.

For so long as the Developer or a successor designated by the Developer is the Owner of a Lot in The Properties, the Developer shall be entitled from time to time to amend or modify any of the provisions of this Declaration, except as to assessments, or to waive any of the provisions, either generally or with respect to particular real property, if in its judgment, the development or lack of development of The Properties requires such modification or waiver, or if in its sole judgment the purposes of the general pian of development will be better served by such modification or waiver, provided no such amendment, modification or waiver shall materially and adversely affect the value of existing Residences or Lots or shall prevent a residence or Lot from being used by the Owner in the same manner that said Residence or Lot was used prior to the adoption of said amendment, modification or waiver. To modify the Declaration in accordance with this paragraph, Developer shall file a supplement to this Declaration setting forth the Amendment. Each such Owner, by accepting a deed to his Residence or other real property, hereby appoints Developer his attorney-in-fact, coupled with an interest, to execute on his behalf any such amendments. Each amendment shall be effective when signed by the Developer and filed for record with the Recorder of Summit County.

This Declaration may also be amended by Developer or the Association at any time and from time to time for the purpose of: (a) complying with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mertgage Corporation, the Department of Housing and Urban Development, the Federal Housing Association, the Veteran's Administration, or any other governmental agency or any public, quasi-public entity, or private insurance company which performs (or may in the future perform) functions similar to those currently performed by such entities; or (b) inducing any of such agencies or entities to make, purchase, sell, insure, or guarantee first mortgages; or (c) correcting clerical or typographical or obvious factual errors in this Declaration or any Exhibit hereto or any supplement or amendment hereto; or (d) complying with the underwriting requirements of insurance companies providing casualty insurance, liability insurance or other insurance coverage's for the Association; or (e) bringing any provision hereof into compliance or conformity with the provisions of any applicable governmental statute, rule or regulation or any judicial determination; or (f) correcting obvious factual errors or inconsistencies between this

Declaration and other documents governing The Properties, the correction of which would not materially impair the interest of any Owner or mortgage holder; or (g) enabling a title insurance company to issue title insurance coverage with respect to The Properties or any portion thereof. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to Developer and/or to the Board of the Association to vote in favor of, make, or consent to a Subsequent Amendment on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting any portion of The Properties and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of the power to the Developer to vote in favor of or, make and record a Subsequent Amendment. To effect said amendment, Developer shall file a supplement to the Declaration setting forth the Subsequent Amendment with the Sunmit County Recorder.

The Developer, its successors or assigns shall be the entity for the interpretation of these Covenants and Restrictions.

Section 6. In the event the Owners or Association fail to collect assessments and otherwise function to perform its duties under these Covenants and Restrictions, the City of Macedonia shall have the right, but not the duty, to collect such assessments which should have been done by the Owners or the Association and as are necessary to perform the above duties and utilize such revenues to perform those functions not performed by the Owners or Association. For the purpose of collection and utilization, the City of Macedonia shall have the rights of the Developer or Association, but shall not be obligated in any way unless it undertakes to collect assessments.

IN WITNESS WHEREOF, the said the 28th day of <u>January</u>	undersigned Owners have hereunto set their names, as o
SIGNED AND ACKNOWLEDGED IN THE PRESENCE OF:	PFR LAND COMPANY
i 1	BY: PETEK KZEPKA, Chairman
Printed Name file of file Car in f ~ On her	BY: Takan (Ciafordan HOWARD S. CHAPMAN Assistant Secretary